

## **REMARKS**

### **I. Introduction**

Claims 2, 4-49, and 53-59 are currently pending in the present application. By the present amendment, claims 7, 8, 10, 14-16, 18, and 53 have been amended to clarify the claimed invention, and new claims 54-59 have been added. No new matter has been added by the present amendment. Applicants respectfully submit that the pending claims are patentable for at least the following reasons.

### **II. Rejection of Claims under 35 U.S.C. § 112, Second Paragraph**

Claims 2, 4-17, 23, 28-47, 49 and 53 stand rejected under 35 U.S.C. § 112, second paragraph for allegedly being indefinite. The Office Action states that the phrase "materials obtainable by" recited in claims 7 and 14 are indefinite.

To expedite prosecution, and to clarify the claim term without changing the scope of the invention, claims 7 and 14 have been amended to recite "materials obtained by." Applicants respectfully submit that the meaning of "obtained by" can readily be ascertained by those of ordinary skill in the art and is therefore definite. Accordingly, the rejection of these claims under § 112, second paragraph is moot and should be withdrawn. With this rejection overcome, claim 14 should be in condition for allowance.

### **III. Rejection of Claims Under 35 U.S.C. § 103(a)**

Claims 2, 4-13, 17-19, 21, 23-26, 38-45, 47-49, and 53 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over GB 2 303 092 in view of GB 1 485 388 and U.S. Patent 4,710,404. Applicants respectfully submit that these references do not render the pending claims obvious for at least the following reasons.

The pending claims depend from independent claim 14 or claim 26. As discussed above, claim 14 as amended now should be in condition for allowance. Claim 26 was previously deemed allowable. (See, e.g., December 19, 2005 Office Action, p. 2). However, the Office Action now states that the "limitation to incorporation of ingredients by post-blending is seen as a process limitation to a product claim" and thus not considered to impart patentability absent a showing of

patentably distinct properties resulting from this process. (July 25, 2006 Office Action, p. 2). Applicants respectfully disagree. The claimed compositions differ from the cited references in that at least part of the stabilising additive is added by post-blending. Because at least part of the additive is added in a separate and later step than the film-forming polymer, there is an actual structural difference in the resulting compositions.

Conventional powder coatings are generally manufactured as follows. First, separately-weighed components (such as resins) are premixed. Next, the premix is subjected to homogenisation via, e.g., melt extrusion. The melt-extruded product, generally in the form of a sheet, is then comminuted to obtain the desired particle size for powder coatings. Figure 1, below, is an example of a product produced by a conventional process where the additive is combined with the other components before homogenisation, and the mixture is then homogenised (e.g., in an extruder), and comminuted.

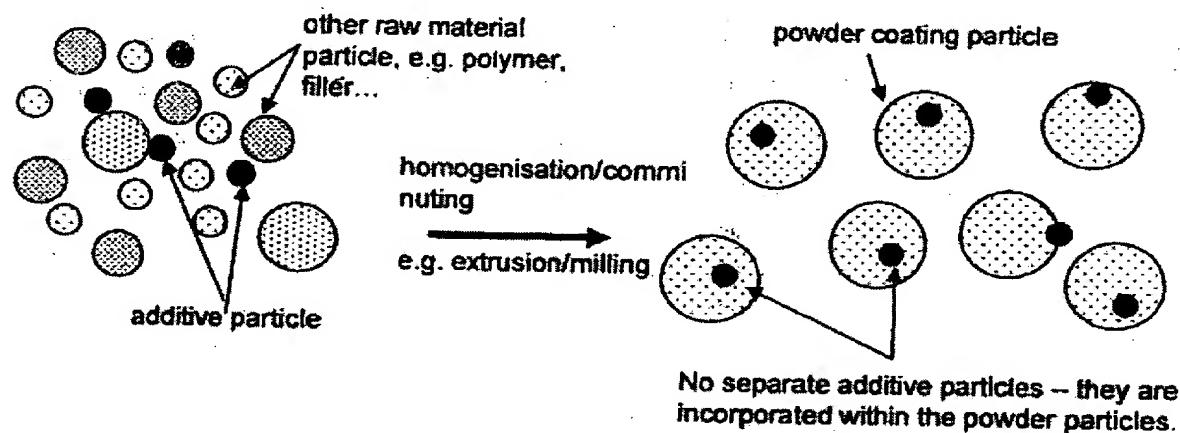


Figure 1. Powder coating particles – Additive combined pre-homogenisation.

As shown in Figure 1 above, when the additive is not post-blended, all the components, including the additive, are essentially dispersed evenly throughout and within the powder particle (e.g., like fruit mixed in a fruitcake).

Applicants' novel compositions, on the other hand, contain additives that are at least in part added after the homogenisation (e.g., extrusion) process. For example, the specification states that the stabilising additives may be incorporated by, for example (i) injection at the mill, with the chip and additive fed into the mill

simultaneously; (ii) introduction at the stage of sieving after milling; or (iii) post-production blending in a "tumbler" or other suitable mixing device. (Specification, p. 9, II. 19-31; see also p. 2, I. 31-p. 3, I. 4 with respect to post-blended metallic pigments). The resulting composition is structurally distinct in that the post-blended components are **bonded to the surface** of the powder coating particles, as opposed to being evenly dispersed within the particle. (See *id.* at p. 3, II. 17-20, with respect to post-blended metallic pigments). Figure 2, below, is an example of Applicants' claimed composition containing post-blended additives:

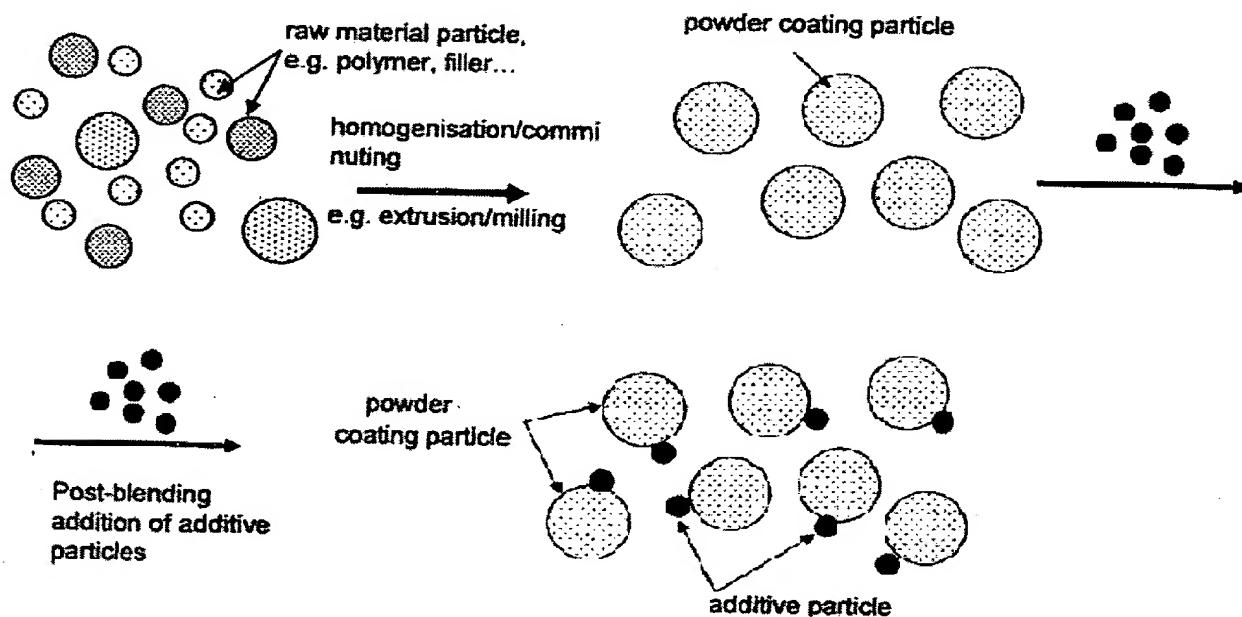


Figure 2. Powder coating particles – Additive combined post-homogenisation.

As shown in Figure 2 above, when the additive is post-blended, the additive ends up on the outside of the powder coating particles, and are not interdispersed within the particles (e.g., like sprinkles on top of a cake). Therefore, as exemplified above, it is clear that the difference in the order of combining the additive leads to a structurally distinguishable final product.

The resulting composition is further distinguishable based on technical effect. For example, when the additive is post-blended, a lesser amount is generally needed in order to achieve the desired anti-corrosive effect as compared to when the additive is added pre-homogenisation. (Specification, p. 10, II. 14-22 "The proportion of stabilising additive incorporated by post-blending will in general be significantly less to

achieve equivalent or superior effects, thus providing an advantage for the post-blending method."). For example, Example 4 illustrates a pre-blended additive amount of about 28%, whereas in other examples, post-blended additives are added in amounts of about 0.5-3% by weight.

Therefore, the claimed compositions are not only structurally distinct, but may be further distinguishable from conventional processes in that a lesser amount of additive will generally be needed. Accordingly, for at least the foregoing reasons, Applicants respectfully submit that the pending claims are patentably distinct over the cited references, and that the § 103 rejection should therefore be withdrawn.

**IV. Conclusion**

It is respectfully submitted that the pending claims are now allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited. The Commissioner is hereby authorized to charge any fees which may be necessary for consideration of this paper to Kenyon & Kenyon LLP Deposit Account No. 11-0600.

Respectfully submitted,

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